

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

SYLVIA LONG,	§	No.
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
H & P CAPITAL, INC.,	§	
	§	
Defendant.	§	
	§	

PLAINTIFF’S COMPLAINT AND DEMAND FOR JURY TRIAL

SYLVIA LONG (Plaintiff), through her attorneys, KROHN & MOSS, LTD., alleges the following against H & P CAPITAL, INC. (Defendant):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).
2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”
4. Defendant conducts business in the state of Texas, and therefore, personal jurisdiction is established.
5. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.

PARTIES

6. Plaintiff is a natural person residing at 100 Redbud Street, Waxahachie, Ellis County County, Texas.
7. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)*.
8. Defendant is an alleged debt collector as that term is defined by *15 U.S.C. 1692a(6)*, and sought to collect a consumer debt from Plaintiff.
9. Defendant is a national debt collection company with its main office located in Jacksonville, Florida and it conducts business in Texas.

FACTUAL ALLEGATIONS

10. Defendant is attempting to collect from Plaintiff a debt allegedly owed to ACE check cashing.
11. In or around January of 2011, Defendant began placing collection calls to Plaintiff up to two times per week from 904-418-5000.
12. Defendant does not identify itself as a debt collector attempting to collect a debt.
13. On or about January 23, 2011, Defendant's representative, Chris Black ("Black"), informed Plaintiff that Defendant would turn Plaintiff over to local authorities in Ellis County if Plaintiff did not pay the debt.
14. On or about January 25, 2011, Defendant's representative, Kelly Green ("Green"), informed Plaintiff that Green's desk was the "last stop" and that Defendant needed money by the end of day or Plaintiff's information would leave his desk to higher escalation.
15. On or about January 25, 2011, Green informed Plaintiff that his "case number" was 1567198 and that Plaintiff should reference the case number when calling back.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

16. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692e of the FDCPA by using false, deceptive or misleading representation or means in connection with the collection of Plaintiff's debt.
- b. Defendant violated §1692e(5) of the FDCPA by threatening to take action that cannot legally be taken or is not intended to be taken.
- c. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an attempt to collect a debt.

WHEREFORE, Plaintiff, SYLVIA LONG, respectfully requests judgment be entered against Defendant, H & P CAPITAL, INC., for the following:

17. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,
18. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k
19. Any other relief that this Honorable Court deems appropriate.

RESPECTFULLY SUBMITTED,

Dated: March 16, 2011

By: /s/Peter Cozmyk,
Peter Cozmyk Esq.
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DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, SYLVIA LONG, demands a jury trial in this case.

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF TEXAS

Plaintiff, SYLVIA LONG, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, SYLVIA LONG, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

2/24/11
Date

Sylvia Long
SYLVIA LONG